IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4513 OF 2006

IN

FIRST APPEAL NO. 2631 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

Atul G. Damle for the applicants.
Alange for respondent nos.1 to 3.

CORAM: S.B. DESHMUKH, J.

October 11, 2006.

P.C. :

1. Not on board. Mentioned. Taken on board.

2. Heard the learned counsel for applicant as well as respondents.

3. The respondents/plaintiffs had filed Special Civil Suit No. 339 of 2001 in the court of Learned District

Judge at Solapur for recovery of damages to the extent of Rs.4,32,000/-. This suit is partly decreed by the 1st Ad-Hoc Additional District Judge, Solapur for recovery of damages to the extent of Rs.4,32,000/-. This suit is partly decreed by the First Ad-Hoc Additional District Judge, Solapur by the judgment and decree passed on 29.8.2006. The decree is passed by the trial court for a sum of Rs.4,00,500/- in favour of the plaintiffs. It seems that the plaintiffs have taken out execution and the executing court has passed an order of attachment. Articles of the applicant bank are attached. Copy of the said warrant of attachment, is annexed to the Civil Application, Exhibit-A.

4. After hearing the learned

counsel for the parties and on perusal of the judgment of the trial court, in my view, judgment and decree passed by the trial court can be stayed during the pendency of the appeal subject to condition that the applicant shall deposit entire decreetal amount in the trial court within a period of four weeks. The learned counsel for respondent, at this stage seeks permission to withdraw the decreetal amount from the court. Heard the learned counsel for the applicants on this point. In my view, this application can be disposed off at this stag itself.

5. In the result, Civil application is partly allowed in terms of prayer clause 7(a), (b) and (c) subject to condition that the applicants shall deposit entire decreetal amount in the trial court

within a period of four weeks from today. In case of failure on the part of the applicant to deposit the decreetal amount within the stipulated period of time, stay granted by this court shall stand vacated.

6. The Learned Trial Judge, is directed to invest the balance amount, in any nationalised bank except State Bank of India initially for a period of 7 years and in absence of any order from this court shall renew the same from time to time.

7. The respondents are permitted to withdraw an amount of Rs.2 lacs subject to security to the satisfaction of the trial court. This withdrawal shall be subject to the outcome of the appeal filed by

the applicants in this court.

8. Civil Application is accordingly allowed and disposed off in above terms.

sd/-

(JUDGE)

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October 11, 2006.

P.C. :

1. List the appeal for admission on 5.12.2006.

sd/-

(JUDGE)